



16 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:	
MOORE	:	
Application No.: 10/520,959	:	DECISION ON
PCT No.: PCT/AU03/00400	:	
Int. Filing Date: 03 April 2003	:	PETITION UNDER
Priority Date: 03 April 2002	:	
Attorney Docket No.: DUMME58.001APC	:	37 CFR 1.137(b)
For: IMPROVEMENTS IN PHALLOPLASTY	:	

This decision is in response to applicants' submission filed 11 January 2005.

BACKGROUND

On 03 April 2003, applicants filed international application PCT/AU03/00400 which designated the U.S. and claimed a priority date of 03 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 October 2004.

On 11 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 11 January 2005.

As to item (2), applicant submitted the petition fee on 11 January 2005.

As to item (3), petitioner's statement that "the entire delay in filing the U.S. National Stage was unintentional" has been construed as meaning that the "entire delay in filing the

required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.


A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.


Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459